

BOISE, WEDNESDAY, JUNE 4, 2008 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

JAY LEE and CORAL LEE, husband and)	
wife, d.b.a. EARTH CONSTRUCTION,)	
)	
Plaintiffs-Counterdefendants-Respondents,)	
)	
v.)	
)	Docket No. 33896
CHARLES R. NICKERSON and DONNA)	
NICKERSON, husband and wife,)	
)	
Defendants-Counterclaimants-Appellants.)	

Appeal from the District Court of the Second Judicial District of the State of Idaho, Clearwater County. Hon. John R. Stegner, District Judge.

Knowlton & Miles, PLLC, Lewiston, for appellants.

Dale O. Cox, Orofino and Brady Law, Chtd., Boise, for respondents.

Appellants Charles and Donna Nickerson (the Nickersons) hired Jay Lee d/b/a Earth Construction to construct a level barn pad and to do some work on a pond on their property. In 2004 Lee filed suit against the Nickersons alleging the Nickersons did not pay him for his work on the pond. The Nickersons answered and filed a counterclaim.

In the course of discovery, the Nickersons refused to allow Lee on their property in order to inspect the property. As a discovery sanction, the district court dismissed the Nickersons' counterclaims. The case went to trial on Lee's complaint and a jury found for the Nickersons on all of Lee's claims. Thus, the district court entered judgment in favor of the Nickersons and the district court awarded the Nickersons attorney fees pursuant to I.C. § 12-120(3). The Nickersons then brought this appeal. On appeal the Nickersons argue the district court erred when it dismissed their counterclaim and that the district court awarded them an inadequate amount of attorney fees.